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March 20, 2012

Supreme Court of Washington
Post Office Box 40929
Olympia, WA 98504-0929

RE: Suggested Standards for Indigent Defense Services

Dear Justices:

I post these comments in response to the proposed standards for caseload limits for indigent defense services. While there are many other reasons that have been stated, I am hoping the Court will consider what I believe to be certain myths that serve as the basis for these proposals.

- 1) The proposed rules assume that all attorneys have equal skills, work equally hard, have equal experience, and therefore should be held to the same caseload limits. Greater flexibility should be allowed for attorneys to handle misdemeanor and gross misdemeanor cases based upon a flexibility that would allow for those attorneys with greater skills that have had greater experience, and work longer hours to be able to handle more cases. Otherwise, we are "dumbing down" the system to those who have the least skills, do not work as hard, and have the least experience;
- 2) There is the obvious incorrect assumptions that all misdemeanors are equally demanding and should be treated equally so that a DUI or an Assault Fourth is treated as equally complicated and as difficult to resolve as a case such as Driving While License Suspended in the Third Degree, MIP, Fishing/Game violations, No Valid Operator's License, and other similar criminal charges, but are not as equally demanding. Consequently, the standards should either eliminate simple misdemeanor cases and leave such standards in effect for only gross misdemeanors and felony cases or allow a much, much greater flexibility in weighting these cases downward which the present standards do not allow. They are precluded because they ignore the fact that more serious

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misdemeanor charges are often resolved with a finding of a much less serious offense. The current standards require a weight system downward for only non-criminal offenses.

I believe we are all aware that the impetus for these standards are, at least in part, improperly motivated by those with other concerns such as the continued efforts to abandoned municipal courts, to, in effect, decriminalize certain existing misdemeanor offenses, and to use a "backdoor" approach to improving working conditions in public defender offices where there are no private defense contractors. It does not mean, however, that a more careful consideration of the proposed standards should not be undertaken with the hope that the suggested changes that have been made by myself and others be put in place.

Very truly yours,

ENBODY, DUGAW & ENBODY

A handwritten signature in cursive script, appearing to read "David P. Arcuri".

David P. Arcuri

DPA/lm